

ORDINANCE NO. 590

AN ORDINANCE REPEALING CERTAIN SECTIONS OF TITLE 15  
OF THE MUNICIPAL CODE OF LAS ANIMAS AS IT RELATES TO  
PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS AND  
ENACTING NEW PROVISIONS RELATED THERETO.

WHEREAS, the City of Las Animas has previously passed an ordinance with regard to peddlers, solicitors, and itinerant merchants as embodied in Section 15-1 through Section 15-14, inclusive, of the Municipal Code of the City of Las Animas; and

WHEREAS, it is the desire of the City Council that the provisions thereof be updated and enacted so as to increase the enforceability of the ordinance; and

WHEREAS, the City of Las Animas is determined that a need exist for more aggressive enforcement of those matters;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS, COLORADO:

**SECTION 1.** That Sections 15-1 through 15-14 are deleted in their entirety.

**SECTION 2.** That a new Section 15-1 is enacted as follows:

Sec. 15-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. "Transient merchant", hawker" or "huckster". The act by any person, whether a resident of the city or not, of traveling or moving from person to person, from house to house or from street to street by foot or by any mode of conveyance and inviting or taking orders for sale or future delivery of goods, wares or merchandise, or any kind of personal property whatsoever, whether such person has, carries or exposed for sale a sample of the subject of such sale and whether or not he is collecting advance payments on such sales or not. This term shall also include all acts as consumer surveys, free inspections, free technical counsel, etc., when such acts are a part of a scheme to make a later customer contact appear a separate transaction.

- B. Soliciting or canvassing. The act by any person, whether a resident of the city or not, of traveling or moving from person to person, house to house or from street to street by foot or by any mode of conveyance and inviting, taking or attempting to take orders or subscriptions for the sale of or for future deliveries of books, magazines or periodicals or other similar publications or for contractual services of any description whether required professional or technical competence or skilled or unskilled labor or a combination of services and materials and irrespective of whether such services or combination of services and materials is to be delivered or furnished or performed immediately or at some future date.
- C. "Peddler". For the purpose of this ordinance, peddler shall mean and include any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle, or otherwise, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, and merchandise offering and exposing the same for sale, or making sales and delivering articles to purchasers.

**SECTION 3.** That a new Section 15-2. is enacted as follows:

Sec. 15-2. Exemptions.

- A. This chapter shall not apply to the selling of daily or weekly newspapers by newsboys, whether on a regular route or not, nor calls by sales representatives of wholesalers or jobbers upon the retail merchants in the city, nor fixed base mail order offices of mail order merchants nor a farmer selling produce raised or produced by him, nor dairies selling dairy products, nor persons selling insurance or securities if licensed by the state to sell insurance and securities and if the securities offered are approved by the Federal Securities Exchange Commission or the securities division of the state department of law.
- B. As an example of persons excluded from the term transient dealer, but not limited to, would be manufacturers' representatives who supply wholesalers dealers or merchants of the City of Las Animas, local area farmers selling their produce, and such persons who are invited into the City of Las Animas by either the City or the Chamber of Commerce. Fireworks stands are exempt from this ordinance, but must comply with the specific fireworks license regulation.

- C. As an example of persons excluded from the term "peddlers", but not limited to, nonprofit organizations such as the Boys and Girls Scouts, religious organizations, and any person invited into a home or place of business by the occupant, prior to the contact in person, such as route sales persons.
- D. Sidewalk merchants and booth-display merchants who are selling wares in conjunction with the annual Oktoberfest Celebration, Santa Fe Trail Days, Huck Finn Day, Ice Cream Social Day, Bent County Fair, and any Las Animas Chamber of Commerce sponsored event, shall be excluded from the operative provisions herein, but only as to the actual days of the events as stated herein.
- E. Las Animas residents conducting yard sales on their own personal residence\property no-more-frequent than five per year basis are excluded from the licensing provisions herein.

**SECTION 4.** That a new Section 15-3. is enacted as follows:

- A. License. It shall be unlawful for any person to solicit, canvass, peddle or engage in business as a transient merchant, peddler, or itinerant merchant or as a hawker or huckster within the city without first obtaining a license as required by this chapter. Any license issued shall terminate on the 90th day after issuance thereof.
- B. The written licenses issued by the City Clerk shall be consecutively numbered, state the time, location and purpose for which it was issued, shall be sealed with the seal of the City of Las Animas and shall further state that the license is non-transferrable.
- C. Application. Any persons desiring to obtain a license in the city shall first make an application for the license under this chapter with the city clerk. Such application shall include a sworn statement on forms to be furnished by the city clerk giving the following information:
  - (1) Name of applicant.
  - (2) Residential address and telephone number.
  - (3) A brief description of the nature of the business and the goods to be sold, solicited and serviced.
  - (4) The length of time for which the right to do business is desired.
  - (5) If a vehicle is to be used, the description of the same, together with the license number and other means of identification

- (6) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- (7) A brief statement of the nature and character of the advertising the applicant plans to use shall be attached to the application with exhibits thereto.
- (8) Credentials of the person for which the applicant wished to do business, authorizing the applicant to act as such representative.
- (9) Such reasonable or other information as to the identity or character of the person having management or supervision of the applicant's business or the method or plan of doing such business as the city clerk may deem proper to fulfill the purpose of this chapter in the protection of the public good.
- (10) Sales Tax License issued by the City of Las Animas.
- (11) Sales Tax License issued by the State of Colorado.

D. Fees.

- (1) Every applicant for a license shall pay the non-refundable city license fee of \$25.00 per 90 day period.
- (2) None of the license fees provided for this chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by licensee or applicant for license to place an undue burden upon such commerce, he may apply to the city council for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume of business and such other information as the city council may deem necessary in order to determine the extent, if any, of undue burden on such commerce. The city council shall then conduct an investigation, comparing applicant's business with other business of like nature and shall make findings of fact from which it shall determine whether the fee fixed by this chapter is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable, and nondiscriminatory, or if the fee has already been paid, shall order a refund of

the amount over and above the fee so fixed. In fixing the fee to be charged, the city council shall have the power to use any method which will assure that the fee assessed shall be uniform with that assessed on business of like nature, so long as the amount assessed does not exceed the fees prescribed herein.

**SECTION 5.** That a new Section 15-4 is enacted as follows:

- A. Investigation of applicant; issuance. Upon the receipt of an application for a license, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- B. If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and his reasons for the same, and return the application to the city clerk, who shall notify the applicant that this application is disapproved and that no license will be issued.
- C. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval and return the same to the city clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant the license to the applicant.

**SECTION 6.** That a new Section 15-5 is enacted as follows:

- A. Renewal. Provided there have been no violations of this Chapter, and the proper amount of sales tax has been collected and remitted to the City, a transient dealer, peddler or solicitor's license may be renewed for an additional term under the terms and provisions of Section 15-3 and 15-4.
- B. Grandfathered Businesses. Existing "peddlers" doing business in Las Animas at the passage of this ordinance will be "grandfathered in" and will not have to pay the application fee, said license shall be required to submit an application and pay any renewal fee thereafter.

**SECTION 7.** That a new Section 15-6. is enacted as follows:

Display; duty of police. It shall be the duty of any police officer of the city to require any person required to have a

license as provided in this chapter and who is not known by such officer to be duly licensed to produce his license and to enforce the provisions of this chapter against any person or persons found to be violating the same.

**SECTION 8.** That a new Section 15-7 is enacted as follows:

Revocation.

- (A) Licenses issued under the provisions of this chapter shall be revoked by the Municipal Judge of the city, after notice of hearing, for any of the following causes:
- (1) Fraud, misrepresentation or false statement contained in the application of the license.
  - (2) Fraud, Misrepresentation or false statement made in the course of carrying on of the licensee's business.
  - (3) Any violation of this chapter.
  - (4) Conviction of any crime or misdemeanor involving moral turpitude.
  - (5) Conducting his business in an unlawful manner, in such manner to constitute a breach of peace or to constitute a menace to the health, safety and general welfare of the public.
- (B) Notice of hearing on the matter of revocation shall be given in writing setting forth specifically the grounds of complaint and time and place of the hearing. Such notice shall either be delivered personally or shall be mailed, postage prepaid, to the licensee at his last known address, five day prior to the day set for the hearing.

**SECTION 9.** That a new Section 15-9. is enacted as follows:

Sec. 15-9. Appeals from decisions of city clerk or chief of police

Any person aggrieved by the action of the city clerk or the chief of police of the city in the denial of permit or in the denial or revocation of a license shall have the right to appeal to the Municipal Judge. Such appeal shall be taken by filing with the Municipal Court, within fourteen days after the notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Municipal Court shall set a time and place for hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in this chapter for notice of hearing on revocation. The decision and order of the city council on such appeal shall be final and conclusive.

SECTION 10. This ordinance shall become effective on December 1, 1997.

ADOPTED on first reading this 9th day of September, 1997.

PASSED on second reading as amended this 14th day of October, 1997.

CITY OF LAS ANIMAS

*Ernest A. Murray*  
William F. Howland, Mayor *Proton*

ATTEST:

*Leslie J. Uncel*  
*by Chaumaine D. Tigg, Deputy City Clerk*  
Leslie J. Uncel, City Clerk

VC

